

NO. D-1-GN-18-001835

NEIL HESLIN,

Plaintiff,

v.

ALEX E. JONES, INFOWARS, LLC,
FREE SPEECH SYSTEMS, LLC, and
OWEN SHROYER,

Defendants

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IN THE DISTRICT COURT OF

TRAVIS COUNTY, TEXAS

261st JUDICIAL DISTRICT

**DEFENDANTS’ FIRST AMENDED RESPONSE TO PLAINTIFF’S MOTION
FOR SANCTIONS AND MOTION FOR EXPEDITED DISCOVERY AND
DEFENDANTS’ MOTION FOR SANCTIONS**

I.

Defendants file this their First Amended Response to Plaintiff’s Motion for Sanctions and Motion for Expedited Discovery and Motion for Sanctions, in part, to insure proper notice to Plaintiff and his counsel of Defendants’ request and motion for sanctions previously stated in the body of their original response at section V. but not in the heading of the pleading.

In this connection, Defendants seek sanctions against Plaintiff’s counsel under Rule 13 of the Texas Rules of Civil Procedure and contend that the Plaintiff’s counsel, at the time of his filing of the Motion for Sanctions, did not have a reasonable belief that the Motion was not groundless and not filed in bad faith or groundless and brought for the purpose of harassment. Furthermore, Defendants contend that Plaintiff’s counsel failed to make reasonable inquiry of the facts prior to filing the Motion for Sanctions.

Defendants also seek sanctions against Plaintiff’s counsel under CPRC §10.001 and §10.004. In this connection, Defendants contend that the Motion for Sanctions was filed with

little if any inquiry, that any such inquiry was not reasonable, that the pleading was filed for improper purposes, including to harass and to needlessly increase the cost of litigation, that the legal contentions in the motion were not warranted by existing law nor by a non-frivolous argument for extension, modification, or reversal of existing law or the establishment of new law and that each allegation or other factual contention in the motion did not have evidentiary support nor was any particular allegation or contention likely to have such support after reasonable opportunity for investigation and discovery.

Pursuant to Rule 13, Defendants seek their reasonable expenses, including attorney fees under Rule 215.2. Pursuant to Chapter 10 of the Texas Civil Practice and Remedies Code, §10.004 (3), Defendants also seek their reasonable expenses that they incurred because of the filing of the motion, including reasonable attorney fees.¹

II. SUMMARY

Plaintiff's Motion for Sanctions and counsels' arguments are simply disingenuous considering that he and his client have sought and continue to seek the removal of Defendants' content from social media and other platforms, through numerous public statements and appearances in the media, appeals to Twitter, YouTube, Facebook and numerous other social media platforms and now the court system. Now after four twitter posts have been removed but preserved by Defendants, and after the two videos Plaintiff claims in this case were defamatory were removed by YouTube at Plaintiff's insistence, Plaintiff's counsel seeks a spoliation ruling and punitive sanctions.

¹ Attached hereto as Exhibit "D" is the Affidavit of Mark C. Enoch.

First, Plaintiff's counsel has alleged four Twitter tweets that have been public for years and two videos already given to them have been destroyed by Defendants. Plaintiff's counsel is misinformed:

1. Defendants have not destroyed any relevant evidence. Defendants have preserved all relevant evidence of Defendants' publications.
2. Any comments of unknown internet users that were attached to the tweets:
 - a. are not relevant evidence to Plaintiff's claims,
 - b. were preserved to the best of Defendants' ability and although 17 comments in total appear to have not been recoverable because the commenter deleted the comment, the commenter's account was deleted, Twitter deleted the commenter's account or comment, or because the comment was lost from Defendants' cache, they were not intentionally deleted by Defendants and the vast majority of the comments were maintained,²
 - c. were never requested by Plaintiff from either Defendants or Twitter,
 - d. were accessible to Plaintiff and his lawyers for years at any time before August 10, 2018,

Plaintiff's motion for sanctions should be denied.

² The comments that were not able to be maintained were either previously deleted by the Twitter commenter or the commenter's account was deleted, which Defendants have no control over and could have been done years ago, or inadvertently lost on Defendants' cache. See attached Exhibit "C" paragraph 6. Defendants' intended only to remove the tweets from public access because of the imminent possibility, if found to be in violation of Twitter policies, of being banned completely by Twitter. See attached Exhibit "C" paragraph 5. This would have resulted in losing all posts and information permanently. See attached Exhibit "C" paragraph 5. There was absolutely no intent to destroy or hide any evidence at all and Defendants attempted to maintain as much information as possible. See attached Exhibit "C" paragraphs 6 and 11.

Second, Plaintiff's motion for TCPA pre-hearing discovery should be denied because Plaintiff has not asserted good cause as the only asserted basis to do the discovery, his motion for spoliation sanctions, is unfounded. Further, the broad and extensive discovery sought is not permitted by the statute and would defeat the purpose behind the statute, which is designed to be an efficient and cost effective safeguard of constitutional rights.

Third, Plaintiff's lawyers have breached their Rule 13 and Chapter 10 duties to make reasonable inquiry before filing their motion for sanctions and filing those sanctions for improper purposes. The Court should consider imposing appropriate sanctions upon Plaintiff's lawyers for their failure to make reasonable inquiry and filing the sanctions motion for improper purposes. As fully described in the Defendants' motions to dismiss in the Pozner and Heslin cases, Plaintiffs in both cases and their common counsel have sought and obtained wide-spread publicity in their extra-judicial attempts to silence Jones and those who agree with him on various political issues.³ Just as with their national media appearances and letters to editors⁴ designed in part to shame public use platforms such as Google, YouTube, Facebook, and Twitter into removing all of Jones' content, counsel filed their baseless motion for sanctions to stir additional negative publicity about Defendants.

III. TEST FOR SPOLIATION

To establish spoliation, Plaintiff must show: (1) Defendants had a duty to preserve the particular relevant evidence, (2) Defendants wrongfully did not preserve the relevant evidence,

³ Mr. Bankston's letter dated May 25, 2018 makes his intentions clear when he states that they "plan to make available to the general public and media copies of all correspondence and pleading which arise in this lawsuit, including this letter." See Exhibit "B," Declaration of David Jones paragraph 15, Exhibit B-89

⁴ See Affidavit of Mark C. Enoch attached hereto as Exhibit A and Huffington Post article attached as Exhibit "A-1"

and (3) Defendants' conduct prejudiced Plaintiff. *See Clark v. Randalls Food*, 317 S.W.3d 351,356 (Tex. App.-- Houston [1st Dist.] 2010, pet. denied).

IV. DEFENDANTS HAVE COMMITTED NO SPOILIATION AND HAVE PRESERVED ALL RELEVANT EVIDENCE.

A. Plaintiff complains of four years-old tweets and two delivered videos.

Plaintiff complains that four tweets, one from 2012, two from 2014, and one from 2015, have been deleted from public viewing on Twitter. Plaintiff complains these four tweets were removed this month after being up for public viewing and viewing and copying by him and his lawyers for years. Plaintiff complains this removal of tweets from public viewing is spoliation of relevant evidence. Plaintiff also complains that two videos have been removed from public viewing on YouTube, and claims that this removal from public viewing is spoliation.

B. Defendants have destroyed no relevant evidence but have preserved all relevant evidence.

Plaintiff is confused about how social media and computers work. Stopping publication by removing a page from a computer screen accessed by the public does not destroy the file on the computers providing the screen with the file in the first place.

The four tweets have not been destroyed and have been preserved by Defendants.⁵ The two videos, one of June 25, 2017⁶, and one of July 20, 2017 are actually in Plaintiff's own lawyers' possession and have been since Defendants delivered copies to Plaintiff's lawyers on July 13, 2018, as evidence in support of Defendants' TCPA motion.⁷

⁵ See attached Exhibit "C" paragraph 6.

⁶ The video about which Plaintiff complains did not occur on June 26, but instead on June 25, 2017.

⁷ See July 13, 2018 Motion at footnotes 172 and 304 as well as its Exhibit B, D. Jones Affidavit at paragraph 40 for video of June 25 broadcast and footnotes 79 and 80 as well as D. Jones Affidavit at paragraph 41 for video of July 20 broadcast.

C. Defendants did not intentionally or negligently destroy any evidence.

"[A] party must intentionally spoliage evidence in order for a spoliage instruction to constitute an appropriate remedy." *Brookshire Bros., Ltd. v. Aldridge*, 438 S.W.3d 9, 23-24 (Tex. 2014). "By 'intentional' spoliage, often referenced as 'bad faith' or 'willful' spoliage, we mean that the party acted with the subjective purpose of concealing or destroying discoverable evidence." *Id.* at 24. "[A] trial court's finding of intentional spoliage . . . is a necessary predicate to the proper submission of a spoliage instruction to the jury." *Id.* at 25. Moreover, showing that the evidence in question was not destroyed with a fraudulent purpose or intent rebuts a spoliage claim. *Buckeye Ret. Co., L.L.C. v. Bank of Am., N.A.*, 239 S.W.3d 394, 401 (Tex. App.—Dallas 2007, no pet.)

Defendants removed from publication the four Twitter posts that were years old because of concerns that they may have been in violation of Twitter's new terms of service. This was a serious and immediate concern as Defendants had just had several of its accounts banned on numerous other social media platforms after mounting media pressure.⁸ If Defendants did not remove such complained-about posts, and they would have likely been found to have violated Twitter policies, the entire account could have been permanently shut down resulting in serious injury to Defendants and the potential loss of all information related to Defendants account.⁹ Twitter can potentially shut down the whole Twitter site for the user, non-violating posts as well as violating posts.¹⁰

Just as Defendants protected content that they feared would be destroyed by Twitter – Defendants took steps to protect other content as well. When Defendants were advised by

⁸ See attached Exhibit "C" paragraph 5.

⁹ *Id.*

¹⁰ *Id.*

Google that their content would be removed, they hired counsel to demand that Google preserve all content.¹¹

Moreover, Plaintiff admits in his motion that Mr. Jones was open about his removal of the old tweets and admits Mr. Jones expressly stated his reasoning for the tweets being removed. Defendants have openly and previously delivered copies of the two videos to Plaintiff's lawyers.¹² There is no evidence Defendants destroyed any tweets or videos at all, much less to conceal or destroy evidence.

Additionally, Plaintiff's counsel attached a declaration from Brooke Binkowski relying on her supposed expertise in online investigation. Based on her work, Plaintiff's counsel alleged that "relevant evidence has been lost" and that Mr. Jones destroyed it. In particular, Plaintiff's counsel alleges that "...it appears that this evidence is likewise lost forever." *Yet, nowhere in Ms. Binkowski's declaration does she state that she could not and did not find the Twitter posts for which she allegedly searched.*

Indeed, in an interview she gave to NBC News which was reporting on Mr. Bankston's motion - and on the *same day that she signed her declaration* in this case, Ms. Binkowski took time for a press interview.¹³

"Southern California journalist Brooke Binkowski has been tracking Jones' social media, and her work was cited in the Texas claim. It states Binkowski "was able to confirm that specific Infowars messages" were delisted after news reports came out about their apparent violation of Twitter's rules.

"I think he might have deleted every single reference to Sandy Hook parents," she told NBC News.

¹¹ See Exhibit "B," Declaration of David Jones paragraphs 13 and 14, Exhibits B-87 and B-88.

¹² See footnote 6.

¹³ See Exhibit "B," Declaration of David Jones paragraph 12, Exhibit B-86. (emphasis supplied)

But while the filing claims “these materials are fruitful sources of evidence,” Binkowski says she has preserved it. “I got it all,” she said.”

D. Defendants used reasonable efforts to preserve all relevant evidence

A party must exercise reasonable care in preserving evidence, but does not have to go to extraordinary measures to preserve evidence. *Miner Dederick Constr., LLP v. Gulf Chem. & Metallurgical Corp.*, 403 S.W.3d 451,466-67 (Tex. App.--Houston [1st Dist.] 2013, pet. denied).

Defendants copied the four tweets before removing them from publication in order to avoid being in violation of Twitter policies.¹⁴ Despite the urgency and seriousness of the situation, Defendants diligently worked to preserve all posts and comments to the posts. Although 17 comments were inadvertently lost on Defendants’ cache, the vast majority of the comments were able to be maintained.¹⁵ Moreover, Defendants have openly delivered copies of the two videos to Plaintiff’s lawyers, a fact that Plaintiff’s lawyers failed to inform this Court of in Plaintiff’s motion for sanctions and motion for discovery.¹⁶ No other reasonable efforts are required.

E. Plaintiff and his lawyers have had open access to the Twitter pages for years and the videos were delivered to his lawyers – they are not prejudiced.

The Twitter posts that Plaintiff complains have been removed were posted in 2012, 2014 and 2015.¹⁷ Any Twitter user in the whole world has had access for years to those posts in their native settings and format and, for years, could copy those posts, and all the comments to those posts. Plaintiff offers no excuse of why he and his lawyers did not do so even though this suit was filed more than four months ago.

¹⁴ See attached Exhibit “C” paragraph 5.

¹⁵ See attached Exhibit “C” paragraphs 6-10.

¹⁶ See footnote 6.

¹⁷ See attached Exhibit “C” paragraphs 7-10.

The complained of Twitter posts have been public since 2012 through 2015. Plaintiff filed his suit April 16, 2018, after the posts were available to all the world for up to six years. When Plaintiff filed this suit, he served only a request for disclosure and no request for production. Defendants answered June 18. Plaintiff has still not served a request for production or conducted any other discovery. Plaintiff has not been prejudiced in preparing his case by anything any Defendant did.

F. Plaintiff's witness's hearsay and conclusory complaints are no evidence of spoliation.

Plaintiff attaches a set of hearsay statements which themselves contain hearsay from a witness who states, without proper foundation and as a conclusion that she is an expert "in online research and the infrastructure of social media." The witness's hearsay statements do not show any spoliation of relevant evidence.

First, the witness's statements are hearsay and contain hearsay within hearsay.

Second, the witness has not established the predicate required under TRE 702.

Third, she does not lay the proper predicate for her use of hearsay information under TRE 703.

Fourth, the witness complains that she checked a "variety of links" provided by a hearsay CNN article and she searched something called the "Internet Archive," and found the "original content" deleted from those two sources (she makes no assertion about other sources having the "content" or not), found the "primary content inaccessible" to her, and the "related discussion, commentary, or hyperlinks" inaccessible to her. She also says saved copies of a social media message leave the message somehow where "its meaning" may "often" be "inscrutable" to her.

These statements are vague, ambiguous and conclusory without sufficient predicate or foundation to show the bases of her opinions.

Fifth, the witness does not have knowledge, personal or otherwise, or the bases thereof, of the content of the tweets or comments though she seems to complain that the comments of unknown persons on the Twitter pages that are not now published are somehow material and relevant to Plaintiff's defamation claim -- she complains that "related" "discussion" and "commentary" are "inaccessible" to her. Spoliation requires the claimed lost evidence must be not only in Defendants' possession or control, but that it must be material and relevant to the Plaintiff's claim. *Wal-Mart Stores v. Johnson*, 106 S.W.3d 718, 722 (Tex. 2003). Thus, even if Defendants had evidence of "related commentary," it is immaterial to spoliation -- what unknown persons on the web say is not relevant to Plaintiff's claims for defamation. The test is whether a defendant's published statement is defamatory in "an objectively reasonable reading," to a "the hypothetical reasonable reader," [see *Dallas Morning News, Inc. v. Tatum*, No. 16-0098, 2018 Tex. LEXIS 404, at *27 - 29 (May 11, 2018).], not whether the statement may be defamatory to some polling of people who give related discussion or commentary on Twitter posts, and not whether the unknown person's statement is defamatory.

Moreover, even a negligent act of destruction is spoliation allowing a presumption only if it "so prejudices the nonspoliating party that it is irreparably deprived of having any meaningful ability to present a claim or defense." *Brookshire Bros., Ltd. v. Aldridge*, 438 S.W.3d 9, 25-26 (Tex. 2014). Given the remote or lack of relevance of these "related" "commentaries," even if they are lost, there is no prejudice to Plaintiff.

In short, Plaintiff's witness tenders only hearsay and her conclusions without evidentiary predicate, and she does not show the relevance of any evidence that is "inaccessible" to her, or that any relevant evidence was destroyed, or that Plaintiff is prejudiced by any of this. She further fails to describe the data on which she relies, she doesn't testify that experts such as she typically rely on these data and she references no credentials or methodology to her "testing" or conclusions thus both the data and her opinions are not reliable.

G. Plaintiff's lawyers seek to pull themselves up by their own boot straps to use a spoliation presumption to substitute for their failure to meet their evidentiary burden under TPCA.

As Defendants show above, the four Twitter posts have been public since 2012 through 2015. Plaintiff filed his suit April 16, 2018, after the posts were available to all the world for up to six years. When Plaintiff filed this suit, he served only a request for disclosure and no request for production. Defendants answered June 18. Plaintiff still served no request for production and still did no discovery. Defendants filed their motion to dismiss under the TCPA on July 13. The statute's automatic stay on discovery became effective that day.

Under the TCPA, on July 13, the burden shifted to Plaintiff to establish "by clear and specific evidence a prima facie case for each essential element of the claim in question" in order to avoid dismissal. TEX. CIV. PRAC. & REM. CODE §27.005(c). Plaintiff still sought no leave of the Court to do any discovery for good cause or otherwise. Only now, nine days away from the Court's hearing of Defendants' TCPA motion, did Plaintiff simultaneously file a motion for sanctions about some evidence his lawyers and those supporting his efforts have had access to for years and other evidence expressly delivered to his lawyers weeks ago, and seeks to do

discovery or make reasonable inquiry. This timing suggests that Plaintiff's lawyers' have ulterior motives here.

The very purpose of the TCPA is that it "protects citizens who... speak on matters of public concern from retaliatory lawsuits that seek to intimidate or silence them," and "professes an overarching purpose of 'safeguard[ing] the constitutional rights of persons to petition, speak freely, associate freely, and otherwise participate in government' against infringement by meritless lawsuits. . . ." *Cavin v. Abbott*, 2017 Tex. App. LEXIS 6511, *16 (Tex. App.--Austin, July 14, 2017). The TCPA further commands us that the statute is to be "construed liberally to effectuate its purpose and intent fully" and that we pursue "any such goals chiefly by defining a suspect class of legal proceedings that are deemed to implicate free expression, making these proceedings subject to threshold testing of potential merit, and compelling rapid dismissal -- with mandatory cost-shifting and sanctions -- for any found wanting." *Id.* Plaintiff seeks to do an end-around that legislative command and substitute an unfounded spoliation motion so that his motion can supply what he lacks -- "clear and specific evidence a prima facie case for each essential element of the claim in question" as required by the statute.

V. PLAINTIFF'S MOTION FOR EXPEDITED DISCOVERY IS WITHOUT GOOD CAUSE.

Plaintiff seeks expedited discovery based on his lawyers' motion for sanctions. As Defendants have said, the very purpose of the TCPA is protect citizens from retaliatory lawsuits and the expense and delay of such suits, and subject those suit to threshold testing of potential merit, and compelling rapid dismissal -- with mandatory cost-shifting and sanctions -- for any found wanting. *Cavin v. Abbott*, 2017 Tex. App. LEXIS 6511, *16 (Tex. App.--Austin, July 14,

2017). The TCPA expressly stays all discovery before a defendant's TCPA motion is heard to avoid the heavy burden of a defendant having to participate in pre-hearing discovery.

Plaintiff seeks to dodge that stay and impose that statutorily-barred burden. The statute expressly declares Plaintiff can do discovery only if Plaintiff shows "good cause." TEX. CIV. PRAC. & REM. CODE §27.006(b). But, wisely, "[g]ood cause must be based on more than mere conjecture; it must have a firm foundation." *Esparza v. State*, 31 S.W.3d 338, 340 (Tex. App.—San Antonio 2000, no pet.). As Defendants show above, Plaintiff's basis for his motion seeking the statutorily discouraged pre-TCPA hearing discovery does not have a firm foundation, but is unfounded, relying only on hearsay and factual conclusions, not evidence. Plaintiff's motion for expedited discovery should be denied.

VI. SANCTIONS UNDER RULE 13 AND CHAPTER 10, TEX. CIV. PRAC. & REM. CODE

The material facts are: (1) the June 25 and July 20 videos have not been destroyed and were previously provided to Plaintiff's lawyers, and (2) the four tweets Plaintiff alleges were destroyed that referenced Sandy Hook have not been destroyed and copies of each tweet and relevant evidence were made and have been preserved by Defendants.

The facts establish that no relevant evidence has been destroyed and Plaintiff has not been prejudiced in the ability to present his case. Plaintiff's counsels' unsupported arguments, misstatements and omission of vital facts shows that Plaintiff's motion for sanctions has no basis in law or fact and was filed in bad faith and for an improper purpose. One of those purposes, in addition to delaying the TCPA hearing by supporting extensive discovery and substituting a

spoliation finding for otherwise absent evidence, is Plaintiff's counsel's desire for media coverage and publicity.¹⁸

Plaintiff's counsel also sought sanctions against parties against whom *he did not even allege any wrongdoing*. At no point in the motion, did Plaintiff's counsel mention - let alone claim - wrongdoing against Defendant Shroyer; yet he sought a spoliation instruction and monetary sanctions against him, just as he did against Jones.¹⁹

The evidence and the Court's file show Plaintiff's lawyers filed this motion and made statements that they knew or should have known were unfounded if they had made the reasonable inquiry as required of them under Rule 13 and should not have filed the motions for the improper purpose of delay, increasing costs and expenses to Defendants, and seeking to avoid their failure to meet their burden under the TCPA. Plaintiff relies heavily on the failure of Defendants' counsel to respond to his emails in the days preceding these motions, despite being fully aware that Defendants' counsel was on vacation.²⁰ Defendants therefore seek sanctions against Plaintiff's lawyers under Rule 13 and Section 10.004, TEX. CIV. PRAC. & REM. CODE, in a form and amount the Court may find just.

VII. RELIEF REQUESTED

Defendants request that upon hearing hereof, Plaintiff's Motion for Sanctions be denied, that Plaintiff's Motion for Expedited Discovery be denied, the Court award Defendants

¹⁸ Mr. Bankston's letter dated May 25, 2018 makes his desire to create a media frenzy around himself and this case clear when he states that they "plan to make available to the general public and media copies of all correspondence and pleading which arise in this lawsuit, including this letter." See Exhibit "B," Declaration of David Jones paragraph 15, Exhibit B-89.

¹⁹ See motion at page 1.

²⁰ Plaintiff's counsel did not copy or otherwise send either of the emails on which he relies to Defendants counsel's legal assistant.

attorneys' fees against Plaintiff's lawyers for Defendants responding to this motion, and general relief.

RESPECTFULLY SUBMITTED,

GLAST, PHILLIPS & MURRAY, P.C.

/s/ Mark C. Enoch

Mark C. Enoch
State Bar No. 06630360

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Telephone: 972-419-8366
Facsimile: 972-419-8329
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ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been served upon the parties listed below via email and via efile.txcourts.gov's e-service system on August 27, 2018:

Mark Bankston
Kyle Farrar
Kaster, Lynch, Farrar & Ball, LLP.
1010 Lamar, Suite 1600
Houston, Texas 77002

/s/ Mark C. Enoch

Mark C. Enoch

NEIL HESLIN,
Plaintiff,

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ALEX E. JONES, INFOWARS, LLC,
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OWEN SHROYER,
Defendants

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IN THE DISTRICT COURT OF

TRAVIS COUNTY, TEXAS

261st JUDICIAL DISTRICT

AFFIDAVIT OF MARK C. ENOCH

STATE OF TEXAS §
§
COUNTY OF DALLAS §

BEFORE ME, the undersigned notary public, on this day personally appeared Mark C. Enoch, known to me to be the person whose name is subscribed below, and who on his oath, deposed and stated as follows:

1. My name is Mark C. Enoch. I am over the age of 21 years, have never been convicted of a felony or crime involving moral turpitude, am of sound mind, and am fully competent to make this affidavit. I have personal knowledge of the facts herein stated and they are true and correct.

2. Attached to this affidavit marked as Exhibit "A-1" is a true and correct copy of an article that I found posted at the url https://www.huffingtonpost.com/entry/sandy-hook-parents-lawyers-ted-cruz-alex-jones_us_5b7eccd4e4b0348585fe5ce9. This exhibit which I printed is a true and correct copy of the article on that website as of the date of this affidavit.

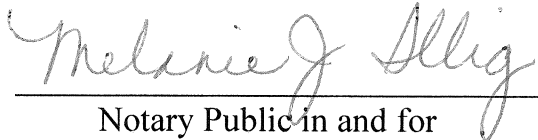


Further Affiant Sayeth Not.



Mark C. Enoch

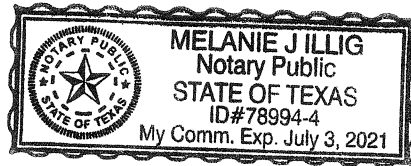
SWORN TO and SUBSCRIBED before me by Mark C. Enoch on August 27, 2018.



Notary Public in and for
the State of Texas

My Commission Expires:

7/3/21



Lawyers Of Sandy Hook Parents To Ted Cruz: Stop Defending Alex Jones

Two lawyers representing parents of the Sandy Hook tragedy in defamation lawsuits against conspiracy theorist Alex Jones have a message for Sen. Ted Cruz (R-Texas): Stop defending the man who has helped further devastate innocent families.

Jones has been hit with multiple lawsuits for claiming the 2012 school shooting in Newtown, Connecticut, was a “hoax” perpetrated by “crisis actors” pretending to be the parents of dead children. Jones’ followers have harassed and threatened the parents of the shooting victims.

Several platforms, including Facebook, YouTube and Spotify, removed accounts belonging to Jones and his website Infowars earlier this month for violating their terms of services.

“When users violate these policies repeatedly, like our policies against hate speech and harassment or our terms prohibiting circumvention of our enforcement measures, we terminate their accounts,” YouTube said in an email at the time.

Cruz – who pointed out he has also been unfairly attacked by the Infowars host – came to Jones’ defense.

“Who the hell made Facebook the arbiter of political speech?” Cruz tweeted at the time. “Free speech includes views you disagree with.”

Cruz tweeted again last week, this time to say it’s important to stand up to “tech censorship online – which many on the Left are embracing.”

Mark Bankston and William Ogden of the Houston law firm Farrar & Ball represent two Sandy Hook families suing Jones, and they’re wondering why Cruz has chosen to take up this cause.

“When it comes to Jones, we can only presume that you are speaking from ignorance and that you do not know the nature of the conduct you are now zealously defending, nor the harm that has befallen my clients and many others,” the lawyers wrote in an op-ed published by the Austin American-Statesman.

“This is not a question of free speech,” they added. “This is not a question of disagreeing with a person’s political views. This is a question of just how much damage we’re prepared to let a madman inflict on the lives of innocent victims through malicious lies and willful harassment.”



The lawyers “beg” Cruz to read the suit filings before commenting on them.

“We’re not sure what it will take for you to stop defending Jones,” they wrote. “Does a Sandy Hook parent need to die before Facebook is allowed to deny this man a platform for his mayhem on their private service? Our clients fully recognize that if Jones wants to tell lies about them in the public square, there is very little anyone can do outside a courtroom to stop him. But we ask you not to defend the idea that private companies like Facebook must empower Jones to harass and endanger the lives of innocent victims.”

[Read the full piece in the Austin American-Statesman.](#)

NEIL HESLIN,
Plaintiff,

v.

ALEX E. JONES, INFOWARS, LLC,
FREE SPEECH SYSTEMS, LLC, and
OWEN SHROYER,
Defendants

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IN THE DISTRICT COURT OF

TRAVIS COUNTY, TEXAS

261st JUDICIAL DISTRICT

DECLARATION OF DAVID JONES

STATE OF TEXAS §
§
COUNTY OF TRAVIS §

1. My name is David Jones. I am over the age of 21 years, have never been convicted of a felony or crime involving moral turpitude, am of sound mind, and am fully competent to make this declaration. I have personal knowledge of the facts herein stated and they are true and correct.

2. In preparing for this declaration, I reviewed internet websites, articles and videos published on the internet and found several that are relevant to the issues in this case.

3. All of these articles were downloaded and/or printed directly from the identified internet websites. If I didn't personally download or print them, I compared the printed exhibit to the article on the website. All of the attached exhibits are true and correct copies of the online articles.



4. Attached to this declaration marked as Exhibit B-78 is a true and correct copy of an article posted at the url address https://www.washingtonpost.com/news/the-intersect/wp/2018/07/14/facebook-wants-to-cut-down-on-misinformation-so-why-isnt-it-doing-anything-about-infowars/?noredirect=on&utm_term=.ae011c037fce. This exhibit is a true and correct copy of the article on that website as of the date of this declaration.

5. Attached to this declaration marked as Exhibit B-79 is a true and correct copy of a *Guardian* article posted at the url address shown on the exhibit. This exhibit is a true and correct copy of the article on that website as of the date of this declaration.

6. Attached to this declaration marked as Exhibit B-80 is a true and correct copy of a *Reuters* article posted at the url address <https://www.reuters.com/article/us-usa-lawsuit-alexjones/conspiracy-theorist-jones-seeks-halt-of-sandy-hook-defamation-suit-idUSKBN1KM4GI>. This exhibit is a true and correct copy of the article on that website as of the date of this declaration.

7. Attached to this declaration marked as Exhibit B-81 is a true and correct copy of an article posted at the url address shown on the exhibit. This exhibit is a true and correct copy of the article on that website as of the date of this declaration.

8. Attached to this declaration marked as Exhibit B-82 is a true and correct copy of an article from *The Hill* posted at the url address <http://thehill.com/homenews/media/402393-lawyers-for-sandy-hook-victims-say-alex-jones-destroyed-evidence-relating-to>. This exhibit is a true and correct copy of the article on that website as of the date of this declaration.

9. Attached to this declaration marked as Exhibit B-83 is a true and correct copy of a Money.cnn article posted at the url address <https://money.cnn.com/2018/08/17/media/alex-jones-sandy-hook-defamation-lawsuit/index.html>. This exhibit is a true and correct copy of the article on that website as of the date of this declaration.

10. Attached to this declaration marked as Exhibit B-84 is a true and correct copy of a *New York Times* article posted at the url address shown on the exhibit. This exhibit is a true and correct copy of the article on that website as of the date of this declaration.

11. Attached to this declaration marked as Exhibit B-85 is a true and correct copy of a Mystatesman article posted at the url address <https://www.mystatesman.com/news/opinion/commentary-why-are-you-sen-ted-cruz-defending-alex-jones/RgdIpn3a4oxObMMCCb2XOK/>. This exhibit is a true and correct copy of the article on that website as of the date of this declaration.

12. Attached to this declaration marked as Exhibit B-86 is a true and correct copy of an NBC News article posted at the url address <https://www.nbcnews.com/news/us-news/alex-jones-destroyed-evidence-sandy-hook-case-claim-says-n901811>. This exhibit is a true and correct copy of the article on that website as of the date of this declaration.

13. Attached to this declaration marked as Exhibit B-87 is a true and correct copy of a letter from Philip Schindler at Google dated August 9, 2018 addressed Attn:

Alex Jones and Buckley Hamman Free Speech Systems, LLC (“Partner”). This letter was also received by me on that date.

14. Attached to this declaration marked as Exhibit B-88 is a true and correct copy of a response letter from one of our attorneys, Mark I. Bailen with the firm of Baker & Hostetler LLP, dated August 16, 2018 addressed to Philipp Schindler with Google LLC. This letter was also received by me on that date.

15. Attached to this declaration marked as Exhibit B-89 is a true and correct copy of a letter from Mark D. Bankston with the firm of Kaster Lynch Farrar & Ball dated May 25, 2018 addressed to Mr. Eric Taube. This letter was also received by me from Mr. Taube on that date.


16. Attached to this declaration marked as Exhibit B-90 is a true and correct copy of a CNBC article posted at the url address <https://www.cnbc.com/2018/08/06/youtube-removes-alex-jones-account-following-earlier-bans.html>. This exhibit is a true and correct copy of the article on that website as of the date of this declaration.

17. Attached to this declaration marked as Exhibit B-91 is a true and correct copy of a *The Hill* article posted at the url address shown on the exhibit. This exhibit is a true and correct copy of the article on that website as of the date of this declaration.

18. In my declaration filed on July 13, 2018, I attached a page labeled as a marker for Exhibit B-36 that inaccurately reflected the date of June 26. Instead the true date of the broadcast was June 25, 2017.

My name is David Jones, my date of birth in November 27, 1950, and my address is 3005 S. Lamar, Suite D 109-317, Austin, Texas 78704, USA. I declare under penalty of perjury that the foregoing is true and correct.

Executed in Travis County, State of Texas, on the 27th day of August, 2018.



David Jones

The Intersect

Facebook wants to cut down on misinformation. So why isn't it doing anything about Infowars?

By Eli Rosenberg
, Reporter
July 14



Facebook has spent much of the last year and a half attempting to tamp down the spread of false and malicious information that bloomed on its platform during the 2016 election.

After a slew of negative publicity, the company adjusted its algorithms, sought to study the political effects of misinformation and issued mea culpas, in the form of congressional testimony and slick advertisements aplenty.

But critics point to one thing it has not done: banned or blocked the site Infowars — one of the most prominent outlets known for spreading baseless information and conspiracy theories — which enjoys many verified Facebook pages with millions of followers. The right-wing media channel's relationship to Facebook has come under closer scrutiny as social media giant has begun touting the other measures it says it has undertaken to try to reduce the amount of misleading information on its site.

At a private event Wednesday, reporters asked John Hegeman, the head of Facebook's News Feed, and Sara Su, a Facebook product specialist, about the issue.

"I guess just for being false, that doesn't violate the community standards," Hegeman said, according to CNN. He explained that Infowars has "not violated something that would result in them being taken down."

Pressed by reporters, other representatives for Facebook struggled to come up with a convincing explanation for why Infowars was permitted on the site if the company was committed to reducing the spread of false information.

"I asked them why Infowars is still allowed on the platform," CNN reporter Oliver Darcy wrote on Twitter later. "I didn't get a good answer."

Facebook's response set off a cascade of reactions, striking at the heart of a sensitive debate about the spread of false and hateful information that has churned since the 2016 election.

"By refusing to ban InfoWars, @facebook is choosing profit off a vile conspiracy theorist who harasses the families of the children killed at Sandy Hook," former Obama administration official Dan Pfeiffer

wrote on Twitter. "Please spare me the self righteousness about freedom of speech."

Infowars, founded by Alex Jones, has gained notoriety for the volume of conspiracy theories that it has helped spread, sowing doubt by questioning the government's potential role in tragedies like 9/11 and the Sandy Hook massacre. In recent days, it has warned that the Democrats were planning to "launch a civil war" on the Fourth of July and that liberal billionaire George Soros was attempting to "seize U.S. voting machines."

President Trump has appeared on Jones's Infowars and has at times appeared to echo some of its talking points.

Facebook representatives tried to tamp down on the rising tide of anger this week, responding on social media that there were Facebook pages "on both the left and the right pumping out what they consider opinion or analysis — but others call fake news," and citing free speech.

But that response was quickly criticized, as some reporters compared it to Trump's infamous comment equivocating white nationalists and counterprotesters during the clashes in Charlottesville last year.

"Facebook's inability to distinguish Infowars (which says Sandy Hook is a hoax) from normal political dialogue should concern us all," Sen. Chris Murphy (D-Conn.) wrote on Twitter.



Jason Schwartz

@JasonSchwartz

Facebook's inability to place InfoWars outside the usual right/left paradigm in response to @oliverdarcy's story is pretty remarkable. The site *objectively* publishes false information-- not a matter of "some consider it opinion or analysis."

Facebook @facebook

Replying to @oliverdarcy

We see Pages on both the left and the right pumping out what they consider opinion or analysis — but others call fake news. We believe banning these Pages would be contrary to the basic principles of free speech.

2:08 PM - Jul 12, 2018

1,033 439 people are talking about this

The Infowars flap is a sign of the complicated position Facebook finds itself in. With billions of pieces of content shared on its site every day, the company has said that vetting the veracity of every single one would be a nearly impossible task. But it has responded to social and political pressure by taking steps

toward reducing harmful uses of its service, including the posting of false information to intentionally mislead or harm others. The company did not respond to a request for comment.

“Despite investing considerable money into national ad campaigns and expensive mini documentaries, Facebook is not yet up to the challenge of vanquishing misinformation from its platform,” Charlie Warzel wrote at BuzzFeed.

TechCrunch’s Josh Constine saw it as evidence that “Facebook hides behind political neutrality” for fear of alienating conservative users and compromising its business model.

“That strategy is exploited by those like Jones who know that no matter how extreme and damaging their actions, they’ll benefit from equivocation that implies ‘both sides are guilty,’ with no regard for degree,” Constine wrote.

Facebook told the publication that it would be nearly impossible to ensure everything posted on the site was true, pointing out that it “down-ranks” certain types of content, such as clickbait and fake news.

“In other words, we allow people to post it as a form of expression, but we’re not going to show it at the top of News Feed.”

Still, though Constine argued for stricter controls and penalties for those like Infowars that spread false information, he said he did not think a complete ban would be the best approach.

“If Facebook deleted the pages of Infowars and their ilk, it would be used as a rallying cry that Jones’ claims were actually clairvoyant,” he wrote. “If Facebook wants to uphold a base level of free speech, it may be prudent to let the liars have their voice. However, Facebook is under no obligation to amplify that speech.”

Far-right activists, some of whom have been banned from social media outlets after running afoul of rules against harassment or hate speech, have long complained that they are the victims of censorship.

Diamond and Silk, two Trump supporters who have gained renown for their videos on Facebook, became a cause celebre in the conservative world after they said they were the victims of overreach by Facebook after the company had deemed some of their content “unsafe.” Facebook later said the communication had been sent in error.



Ben Collins

@oneunderscore__

This is Facebook equating having Infowars, which once accused a pizza shop of being part of a child sex ring and denied the Sandy Hook shooting was real, with "pages on both the left and

the right pumping out what they consider opinion or analysis – but others call fake news."

Facebook @facebook

Replying to @oliverdarcy

We see Pages on both the left and the right pumping out what they consider opinion or analysis – but others call fake news. We believe banning these Pages would be contrary to the basic principles of free speech.

1:55 PM - Jul 12, 2018

7,634 2,508 people are talking about this

Jonathan Albright, research director at Columbia University's Tow Center for Digital Journalism, agreed that attempts at outright bans could backfire.

"If they were to go and ban Infowars, it very well could make the problem worse," he said in an interview. "It's a Catch-22."

Despite what has seemed to be a steady stream of negative disclosures in American media in recent months, Facebook's business continues to boom. The company posted record profits in the first quarter of 2018, despite the data protection scandal that unfolded at the time, sending its stock rising to its largest gains in nearly three years.

And those numbers lead to more pessimistic conclusions about Facebook's commitment to change.

"Facebook's milquetoast method of dealing with accounts in these so-called gray areas seems to conflict with its stated goals, both of building community and of weeding out misinformation," Vanity Fair's Maya Kosoff wrote. "In glibly allowing bad actors like Infowars to continue existing on its platform, Facebook is enabling the persistent spread of low-truth stories intended to mislead. And until doing so affects its stock value or its ability to turn a profit, Facebook has little incentive to change."

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Eli Rosenberg

Eli Rosenberg is a reporter on The Washington Post's General Assignment team. He has worked at the New York Times and the New York Daily News. [Follow](#)

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The Guardian

Facebook's pledge to eliminate misinformation is itself fake news

Zuckerberg is trying to have it both ways: claiming credit for fighting fake news but insisting that false information be distributed on Facebook

Judd Legum

Fri 20 Jul 2018 10.05 EDT



The production values are high and the message is compelling. In an 11-minute mini-documentary, Facebook acknowledges its mistakes and pledges to “fight against misinformation”.

“With connecting people, particularly at our scale, comes an immense amount of responsibility,” an unidentified Facebook executive in the film solemnly tells a nodding audience of new company employees.

An outdoor ad campaign by Facebook strikes a similar note, plastering slogans like “Fake news is not your friend” at bus stops around the country.

But the reality of what's happening on the Facebook platform belies its gauzy public relations campaign.

Last week CNN's Oliver Darcy asked John Hegeman, the head of Facebook's News Feed, why the company was continuing to host a large page for InfoWars, a fake news site that traffics in repulsive conspiracy theories. Alex Jones, who runs the site, memorably claimed that the victims of the Sandy Hook mass shooting were child actors.

Hegeman did not have a compelling answer. "I think part of the fundamental thing here is that we created Facebook to be a place where different people can have a voice. And different publishers have very different points of view," Hegeman said.

Claiming the Newtown massacre is a hoax is not a point of view. It's a disgusting lie - but a lie that, apparently, Facebook does not see as out of bounds.

Facebook does not just tolerate Infowars. It seeks to profit from Infowars and its audience. Facebook's advertising tools, at time of writing, allow advertisers to pay Facebook to target the 743,220 users who "like" the InfoWars page.

INCLUDE people who match at least ONE of the following

Interests > Additional Interests

InfoWars

Size: 743,220

Interests > Additional Interests > InfoWars

Edit and explore your interests

Suggestions Browse

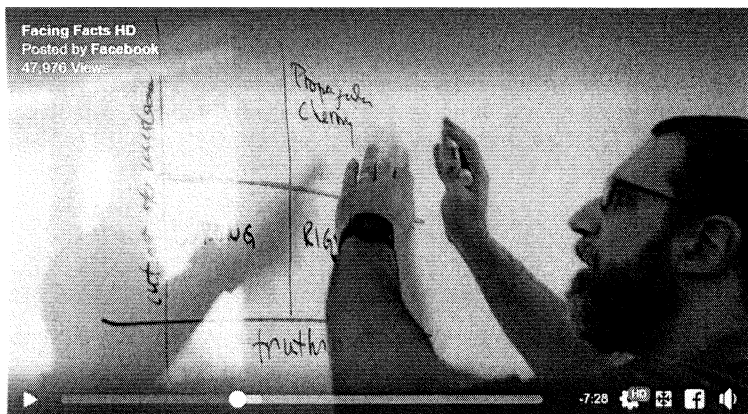
Description: People who have expressed an interest in or like pages related to InfoWars

Report this as inappropriate

Infowars targeting. Photograph: Facebook

In the Facebook documentary, Eduardo Ariño de la Rubia, a data science manager at Facebook, provides more insight on what kind of content the company believes is unacceptable. De la Rubia says Facebook looks at content along two metrics, "truth" and "intent to mislead".

De la Rubia draws a simple chart with "truth" on the x-axis and "intent to mislead" on y-axis, creating four quadrants. Only information in the upper left of the chart, low on "truth" and high on "intent to mislead", should be purged from Facebook, he says. (Without an "intent to mislead", De la Rubia says, it's just being "wrong on the internet".)



Photograph: Facing Facts/Facebook

De la Rubia offered “Pizzagate”, the hoax that claimed prominent Democrats were running a child sex trafficking ring out of a basement of a DC pizza parlor, as an example of the kind of unacceptable content that would fall into the upper-left quadrant.

That conspiracy was promoted by none other than Infowars’ Alex Jones. (Jones apologized after a man entered the pizza shop and opened fire.)

The problem with Facebook’s strategy seems to be less their theoretical framework than their practical refusal to place almost anything into the upper-left quadrant. Zuckerberg placed his deeply flawed approach in stark relief during an interview with Recode’s Kara Swisher on Wednesday.

Interrupting Swisher, Zuckerberg volunteered that he found Holocaust denial “deeply offensive” but would not ban Holocaust deniers from Facebook because it’s “hard to impugn intent and to understand the intent”.

Zuckerberg’s position echos the company’s promotional video. “There is a lot of content in the gray area. Most of it probably exists where people are presenting the facts as they see them,” Tessa Lyons, Facebook’s project manager for News Feed integrity, says to the camera.

This is where Facebook’s approach completely breaks down. If Zuckerberg is willing to give Holocaust deniers the benefit of the doubt - and therefore keep them on the Facebook platform - it’s clear that Facebook’s pledge to eliminate misinformation is itself fake news.

Zuckerberg, facing an avalanche of criticism, later released a statement saying he “absolutely didn’t intend to defend the intent of people who deny” the Holocaust. He did not, however, back away from his core position - that Holocaust deniers have a place on Facebook.

Facebook is trying to have it both ways. The company is actively seeking credit for fighting misinformation and fake news. At the same time, its CEO is explicitly saying that information he acknowledges is fake should be distributed by Facebook.

Zuckerberg seems to believe that technology will get the company out of this jam. “We have to do everything in the form of machine learning,” Henry Silverman, an operations specialist for News Feed integrity, says earnestly in Facebook’s documentary about fighting fake news.

The solution, in Zuckerberg’s view, appears to be to allow virtually anything to be posted but then drowning it out with heaps of baby pictures. In his statement clarifying his comments on Holocaust deniers, Zuckerberg said that verifiably false information would “lose the vast majority of its distribution in News Feed”, adding that he believed “the best way to fight offensive bad speech is with good speech”.

But the idea that people will be willing to tolerate Holocaust deniers on Facebook if those posts reach a few less people ignores the moral component of these decisions. There is no algorithm for human decency.

Judd Legum writes Popular Information, a political newsletter

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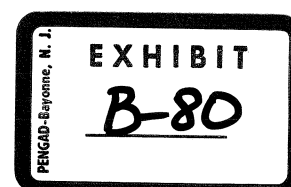
Conspiracy theorist Jones seeks halt of Sandy Hook defamation suit

Jon Herskovitz

3 MIN READ



AUSTIN, Texas (Reuters) - Lawyers for conspiracy theorist Alex Jones asked a Texas court on Wednesday to dismiss a defamation lawsuit against him and his InfoWars website, filed by parents of two children killed in the 2012 Sandy Hook massacre.



FILE PHOTO: Alex Jones from Infowars.com speaks during a rally in support of Republican presidential candidate Donald Trump near the Republican National Convention in Cleveland, Ohio, U.S., July 18, 2016.
REUTERS/Lucas Jackson/File Photo

Jones, who lives in Travis County, Texas, has used his media platform to call the mass shooting at a Connecticut elementary school that killed 26 people a hoax, and suggested a political cover-up took place by left-wing forces seeking to take advantage of the shooting to promote gun control.

Mark Enoch, an attorney for Jones, described his client as a political commentator expressing his views and played a 2017 broadcast where Jones said he did not believe the Sandy Hook shooting took place. Jones was not in court.

“Maybe it’s fringe speech. Maybe it’s dangerous speech, but it is not defamation,” he told Judge Scott Jenkins, who has 30 days to rule on the motion to dismiss the case.

In 2013, Jones called the massacre “staged” and continued to stoke his conspiracy theory for years.

“Sandy Hook is a synthetic, completely fake, with actors, in my view, manufactured,” he said in a January 2015 broadcast.

Although his theory is false, people who believe Jones have for years harassed and taunted families of the victims, court papers showed and the families have said. The lawsuit filed in April by Leonard Pozner, Veronique De La Rosa seek at least \$1 million in damages. They claim they were subject to harassment that forced them to move seven times after Jones claimed the parents were liars and frauds who helped in a cover-up, according to court documents.

Mark Bankston, an attorney for the parents, told the judge that InfoWars viewers understood Jones was alleging that the parents were part of a criminal conspiracy and subjected the parents to years of threats.



A gunman killed 20 young children and six adults at Sandy Hook Elementary School in Newtown, Connecticut, on Dec. 14, 2012, in an attack that ranks among the five deadliest mass shootings by a single gunman in U.S. history.

Facebook (FB.O) last week suspended Jones from its social network for bullying and hate speech, after Google’s YouTube removed four of his videos from its site.

The lawsuits in Texas were the first defamation cases brought by parents of Sandy Hook victims against Jones. He is also facing civil action in Connecticut by additional Sandy Hook parents.

Bankston said after the hearing he sees the cases as a building wave that could topple Jones.

“The dam has broken and people are not scared to come forward. For years, people were afraid to take on Alex Jones,” he said.

Jones’ lawyer declined to speak after to media the hearing.

Reporting by Jon Herskovitz; Editing by Bill Tarrant and Bill Berkrot

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The New York Times

Alex Jones and Infowars Content Is Removed From Apple, Facebook and YouTube

By Jack Nicas

Aug. 6, 2018

Top technology companies erased most of the posts and videos on their services from Alex Jones, the internet's notorious conspiracy theorist, thrusting themselves into a fraught debate over their role in regulating what can be said online.

Apple, Google, Facebook and Spotify severely restricted the reach of Mr. Jones and Infowars, his right-wing site that has been a leading peddler of false information online. Mr. Jones and Infowars have used social media for years to spread dark and bizarre theories, such as that the Sandy Hook school shooting was a hoax and that Democrats run a global child-sex ring. Apple made its move on Sunday and the others followed on Monday.

The actions, one of the tech companies' most aggressive efforts against misinformation, highlighted a difficult dilemma for their businesses. They have long desired to combat misinformation online, but they have also been reluctant to be arbiters of truth.

But since a rise of misinformation online around elections, such as the 2016 presidential vote, the tech companies have faced increasing calls from lawmakers and the news media to address their role in that spread of false information and a related increase in partisan divisions. The tech companies have recently stepped up enforcement — but that has led to accusations of political bias, largely from conservatives.

The moves over the last two days helped fuel that debate. “Whether you like @RealAlexJones and Infowars or not, he is undeniably the victim today of collusion by the big tech giants,” Nigel Farage, a British conservative politician, said on Twitter. Mr. Farage helped lead the successful campaign for the country to leave the European Union and has been interviewed by Mr. Jones. “What price free speech?”

Apple on Sunday removed five of the six Infowars podcasts on its popular Podcasts app. Commenting on the move, a spokeswoman said, “Apple does not tolerate hate speech.”

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Facebook, Spotify and Google's YouTube site, which removed some Infowars content last week, followed with stronger measures on Monday. Facebook removed four pages belonging to Mr. Jones, including one with nearly 1.7 million followers as of last month, for violating its policies by "glorifying violence" and "using dehumanizing language to describe people who are transgender, Muslims and immigrants." Facebook said the violations did not relate to "false news."

YouTube terminated Mr. Jones's channel, which had more than 2.4 million subscribers and billions of views on its videos, for repeatedly violating its policies, including its prohibition on hate speech. Spotify cited its own prohibition on hate speech as the reason for removing a podcast by Mr. Jones.

Mr. Jones and Infowars are leaders in using the internet to spread right-wing conspiracy theories, an effort that was aided after Donald J. Trump appeared on Mr. Jones's show during the 2016 presidential campaign and praised Mr. Jones's reputation as "amazing." Mr. Jones has repeatedly claimed that the government staged the Oklahoma City bombing, the Sept. 11 terrorist attacks and numerous other mass shootings and tragedies.

Mr. Jones is facing defamation lawsuits filed by the parents of victims of the Sandy Hook school shooting for claiming that the shooting was an elaborate hoax. Most of Mr. Jones's conspiracies push a theme that a global cabal of political and corporate leaders run the world's institutions to brainwash citizens and take away their rights. Mr. Jones partly finances his operation by selling expensive nutritional supplements and vitamins between Infowars segments.

"To many, Jones is a bad joke," said the Southern Poverty Law Center, which tracks hate groups. "But the sad reality is that he has millions of followers who listen to his radio show, watch his 'documentaries' and read his websites, and some of them, like Boston Marathon bomber Tamerlan Tsarnaev, resort to deadly violence."

Mr. Jones and Infowars did not respond to requests for comment.

In a message posted on Twitter on Monday, Mr. Jones said: "The censorship of Infowars just vindicates everything we've been saying. Now, who will stand against Tyranny and who will stand for free speech? We're all Alex Jones now." He railed against the tech companies on his live show on Monday, which was streamed on the Infowars website, saying their moves were part of a leftist agenda in advance of the midterm elections. "I told you this was coming," he said to viewers.

The big tech firms that control, via their websites and apps, how much of the world's media content is distributed have faced criticism in recent weeks for enabling Mr. Jones and Infowars.

Some tech companies, including Facebook and Google, had appeared reluctant to remove Mr. Jones's pages entirely and were instead taking action against specific videos or podcasts. YouTube, for instance, recently deleted four of Mr. Jones's videos.

A Google spokesman said on Monday that YouTube terminated Mr. Jones's channel outright because he continued to flout policies he had already been penalized for violating.

Mr. Jones had amassed millions of followers, but limiting his influence does not solve the problem of false news. Hundreds of smaller publishers promote similar conspiracy theories, and millions of followers help spread those theories by reposting them. A new conspiracy theory called Qanon, for instance, has been gaining traction outside of Mr. Jones's sphere. And Infowars followers can also still repost videos and articles from the site onto YouTube and Facebook.

But the moves are a significant hit to Mr. Jones's ability to reach wide audiences, and particularly new followers. YouTube was a particularly important distribution channel, in part because YouTube's recommendation engine frequently surfaced past Infowars videos to users who had shown interest in conservative topics. Terminating his YouTube channel erases all of its past videos and restricts it from posting new ones.

Mr. Jones and Infowars still have other ways to reach listeners and readers. They have increasingly been directing viewers to visit the Infowars website, which would limit their reliance on the tech companies, presumably foreseeing the bans. Twitter has not restricted the accounts of Mr. Jones or Infowars. A Twitter spokesman said the accounts were not in violation of Twitter's rules.

Other tech companies' approach has been uneven; they have left up Infowars content on some of their services despite removing it from others.

Infowars introduced a new smartphone app last month that is finding users on Apple's App store and Google's Play Store. From July 12 through Monday, the Infowars app was, on average, the 23rd most popular news app on the Google Play store and the 33rd most popular news app on Apple's App Store, according to App Annie, an app analytics firm. On Monday, the Infowars app ranked ahead of apps like BuzzFeed and The Wall Street Journal on Google, and ahead of apps like MSNBC and Bloomberg on Apple.

Apple decided to allow the Infowars app on its store after reviewing it, according to a person close to the company who spoke on condition of anonymity. The Google Play Store has different policies than YouTube, a Google spokesman said.

Matt Rivitz, a freelance copywriter who helps run a Twitter account, Sleeping Giants, that pressures companies to distance themselves from far-right groups, said Monday that the tech companies' nearly simultaneous moves against Mr. Jones proved they were acting in response to public pressure, not new data showing he broke rules.

“The timing is very puzzling because he’s been saying this stuff for years and they haven’t done anything,” Mr. Rivitz said.

Conservatives warned that more sites would be cut off soon.

“To all other conservative news outlets — you are next,” Paul Joseph Watson, a right-wing commentator and Infowars contributor, said on Twitter on Monday. “The great censorship purge has truly begun.”

Follow Jack Nicas on Twitter: @jacknicas.

A version of this article appears in print on Aug. 6, 2018, on Page A1 of the New York edition with the headline: Tech Giants Push Infowars Off Digital Soapbox



Lawyers for Sandy Hook victims accuse Alex Jones of destroying evidence

BY ARIS FOLLEY · 08/17/18 04:05 PM EDT

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Lawyers representing the families of victims of the 2012 Sandy Hook Elementary School shooting are accusing Alex Jones and his Infowars business of intentionally destroying evidence relevant to a defamation case they are bringing against him.

According to the motion obtained by [The New York Times](#), Jones instructed his staff to delete tweets after CNN reported his platform had content that violated Twitter's policies.

The families suing Jones claim that at least some of the deleted content was deemed relevant evidence in their defamation suit. The filing also says Jones was told earlier this year that he was obligated by law to preserve all material relevant to the cases.

The InfoWars owner is currently being sued by the families of nine victims who were killed in the 2012 shooting in Connecticut for spreading lies about the shooting.

Jones, a noted conspiracy theorist, has claimed the shooting was staged and that the parents were involved in a cover up. The families say Jones's conspiracy theories have led to them being harassed and threatened.

Jones has been under the spotlight in recent weeks as tech and social media companies have faced pressure to prevent him from spreading false content online.

In recent days, Apple, Facebook, YouTube and other services have blocked him for sharing content that violated their policies against hate speech, inciting violence and child endangerment.

"As pressure mounted from pending defamation lawsuits and growing public indignation, Mr. Jones chose to destroy evidence of his actual malice and defamatory conduct," the motion stated.

"InfoWars deleted critical evidence at the precise moment plaintiff and his experts were attempting to marshal that evidence."

It is unclear how much content had been deleted to could be relevant to the suit.

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Earlier this week, Twitter also [took action](#) against Jones, blocking him from tweeting from his personal Twitter account for one week after one of his posts violated the platform's policies.

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Alex Jones, InfoWars accused of destroying evidence related to Sandy Hook suit

Tom Kludt

Attorneys representing the father of a Sandy Hook shooting victim alleged Friday that far-right conspiracy theorist Alex Jones destroyed evidence related to their defamation lawsuit against him.

In a motion filed in a Texas state court on behalf of Neil Heslin, the plaintiff's lawyers said that Jones deleted Twitter posts, some of which dealt with the 2012 mass shooting, following a [CNN investigation](#) that found Jones in violation of the social media platform's rules.

Heslin, who lost his six-year-old son in the Sandy Hook massacre, is a plaintiff in one of three separate defamation suits brought by victims' families against Jones, who has falsely claimed that the shooting was a hoax carried out by actors.

Attorneys Mark Bankston, Kyle Farrar and William Ogden, who are representing other Sandy Hook family members in a separate suit against Jones, said in the motion Friday that they reached out to legal counsel for InfoWars, the conspiratorial website run by Jones, to "confirm whether these [news] reports are accurate and these items have indeed been destroyed." They said that InfoWars' attorney did not respond.

"Despite counsel's silence, it is clear from Mr. Jones' own admissions that relevant evidence has been lost. As pressure mounted from pending defamation lawsuits and growing public indignation, Mr. Jones chose to destroy the evidence of his actual malice and defamatory conduct uncovered by [CNN]," the attorneys said in the motion.

"InfoWars deleted critical evidence at the precise moment Plaintiff and his experts were attempting to marshal that evidence," the motion continued. "At this stage, it is unknown exactly how much content has been deleted, though it includes extensive social media materials and reportedly hundreds of hours of video."



The attorneys for the plaintiff have requested "fees and costs to address the time spent on this matter," which could be as much as hundreds of thousands of dollars.

Jones' attorney did not immediately respond to a request for comment. Jones said on his program that he had his staff delete the tweets in order to "take the super high road."

The defamation lawsuits are only part of Jones' mounting turmoil as of late. His social media presence has disintegrated, after Apple removed the full library of his podcasts, YouTube terminated his account and Facebook unpublished his pages. And following CNN's investigation, Twitter admitted late last week that Jones was in violation of its rules but would remain on the platform.

That changed on Tuesday, when Twitter suspended Jones from the platform for one week.

CNNMoney (New York) First published August 17, 2018: 6:23 PM ET

The New York Times

Twitter Suspends Alex Jones and Infowars for Seven Days

By Cecilia Kang and Kate Conger

Aug. 14, 2018



WASHINGTON — Twitter on Tuesday suspended the account of the far-right conspiracy theorist Alex Jones for a week after he tweeted a link to a video calling for supporters to get their “battle rifles” ready against media and others, in a violation of the company’s rules against inciting violence.

The social media company followed up on Wednesday by also suspending the account for Infowars, the media website founded by Mr. Jones, for posting the same video.

The twin actions effectively prevent Mr. Jones and Infowars from tweeting or retweeting from their Twitter accounts for seven days, though they will be able to browse the service.

The moves were Twitter’s harshest against Mr. Jones and Infowars after other tech companies took steps last week to ban them from their platforms. The removals began when Apple announced it would purge videos and other content by Mr. Jones and Infowars because of hate speech, followed by Facebook, YouTube and then Spotify. Twitter was the sole holdout among the major tech companies in not taking down content from Infowars and Mr. Jones, who has called the Sandy Hook shooting a hoax conducted by crisis actors.

Twitter’s chief executive, Jack Dorsey, has been resolute in the company’s decision to keep Mr. Jones’s account online. He has said Twitter did not think that Infowars and Mr. Jones violated its rules, which prohibit direct threats of violence and some forms of hate speech but allow deception or misinformation.

But the lack of action prompted criticism of Twitter from its users — and even from some of its own employees. Late last week, Twitter began softening its tone, especially after CNN and others found more than half a dozen tweets from Mr. Jones that clearly violated the company’s policies. Twitter said it ordered Mr. Jones to take those tweets down.

Even so, Twitter’s actions stop short of a full ban of Mr. Jones and his publication from Twitter and leaves many questions unanswered about what actually gets people or organizations booted off the service. The company’s policy calls for the short-term suspension of an account after repeated violations, but Twitter declined to clarify how many offenses would terminate Mr. Jones’s account permanently.

The suspension began after Mr. Jones tweeted or retweeted more than a dozen times during the day on Tuesday, including one post that linked to a live video session in which he apparently called for violence against certain groups, including the media. After a user flagged the tweet, Twitter said it determined the post violated its safety rules. Mr. Jones was ordered to take down the tweet linking to the video broadcast on Periscope, the live-streaming service that is owned by Twitter.

A Twitter spokesman declined to comment on Tuesday beyond confirming that Mr. Jones's new tweet broke its rules and that he was frozen out of using the service for a week.

Not long after Mr. Jones's Twitter account was suspended, the Twitter account for Infowars sprang into action. "@RealAlexJones is now in @Twitter prison!" the Infowars account tweeted.

Then on Wednesday, the Infowars account posted the same offending video — and soon got the same timeout. Twitter said it had no further comment.

"I feel any suspension, whether it be a permanent one or a temporary one, makes someone think about their actions and their behaviors," Mr. Dorsey told NBC News in an interview on Wednesday. Referring to Mr. Jones, he added, "Whether it works within this case to change some of those behaviors and some of those actions, I don't know."

Follow Cecilia Kang and Kate Conger on Twitter: @ceciliakang and @kateconger.

Cecilia Kang reported from Washington and Kate Conger from New York.

A version of this article appears in print on Aug. 14, 2018, on Page B2 of the New York edition with the headline: Twitter Suspends Infowars Founder's Account Over a Tweet

Why are you, U.S. Sen. Ted Cruz, defending Alex Jones?

by Kirkus Reviews

Dear U.S. Sen. Ted Cruz,

As counsel for the Sandy Hook parents in their Texas defamation lawsuits, we ask that you reconsider your recent statements about InfoWars host Alex Jones.

Over the past month, you have repeatedly defended Jones against Facebook's decision to ban his account. Just a few days ago, you wrote yet another tweet defending InfoWars against what you called "tech censorship online."

ALSO READ: Lawyers accuse Alex Jones of deleting evidence in Sandy Hook case.

When it comes to Jones, we can only presume that you are speaking from ignorance and that you do not know the nature of the conduct you are now zealously defending, nor the harm that has befallen my clients and many others. This is not a question of free speech. This is not a question of disagreeing with a person's political views. This is a question of just how much damage we're prepared to let a madman inflict on the lives of innocent victims through malicious lies and willful harassment.

We beg that you have your staff provide you the court filings in Pozner v. Jones, Cause No. D-1-GN-18-001842, and that you read the affidavit of former Statesman editor Fred Zipp, who details the monstrous five-year campaign of lies and dangerous harassment waged against the Sandy Hook families. You'll learn that when Leonard Pozner had videos about his son removed from YouTube, Jones retaliated by revealing addresses and displaying maps that could be used to find the family. You'll learn that in 2017, an InfoWars follower was sentenced to prison when law enforcement caught her stalking the Pozner family and threatening their lives.

INSIGHT: Why Alex Jones, or someone like him, will be back on social platforms.

Have your staff provide you the court filings in Heslin v. Jones, Cause No. D-1-GN-18-001835, and you'll learn that an InfoWars host laughed as he mocked a Sandy Hook father as a fake, claiming he could prove the father was lying about having held his dead child. Read these filings and understand what he and his reporters have done to endanger the community in Newtown, Conn., before you say anything else about Jones.

It doesn't stop with Sandy Hook. Consult the court filings in Fontaine v. Jones, Cause No. D-1-GN-18-001605, and read the affidavit of former Snopes.com editor Brooke Binkowski.

You'll learn that InfoWars maliciously accused an innocent young man of being the shooter in Parkland, Fla., based on a tip from neo-Nazi trolls on a gutter website famous for child pornography and other illegal activity. After InfoWars spread his image to millions, and as Jones insisted Parkland was a "false flag," conspiracy fanatics harassed this young man and threatened his life, alleging he was a "crisis actor."



LIKE US ON FACEBOOK: Our Viewpoints page brings the latest opinions to your feed.

Nor does it stop with the cases we are handling here in Texas. Jones also faces lawsuits in Virginia, Connecticut and Ohio. An armed InfoWars follower opened fire inside a pizzeria following Jones' bizarre lies about a pedophile dungeon in the basement run by Washington, D.C., elites. Jones told his followers that "you have to go investigate it for yourself." After Jones told his viewers that the Sutherland Springs church shooting was an operation ordered by the "deep state," conspiracy fanatics yelled violent threats at the pastor.

We're not sure what it will take for you to stop defending Jones. Does a Sandy Hook parent need to die before Facebook is allowed to deny this man a platform for his mayhem on their private service? Our clients fully recognize that if Jones wants to tell lies about them in the public square, there is very little anyone can do outside a courtroom to stop him. But we ask you not to defend the idea that private companies like Facebook must empower Jones to harass and endanger the lives of innocent victims.

LETTERS TO THE EDITOR: [Click this link to submit your opinions.](#)

Nor is this a political issue, nor a fight between Democrats and Republicans. Jones accused President Bush of staging 9/11, and he attacked your family, claiming your father, Rafael Cruz, killed JFK. Ever since the 2016 campaign, we have never understood why you refused to stand up for your family against the people who spread these lies — and you worked hard to ingratiate yourself to them. We are sure you had your reasons. And we are not asking you to stand up for the Sandy Hook families now; we just want you to fully understand what you are defending before you throw the weight of your office behind the man who has tormented their lives and so many others.

Bankston and Ogden are attorneys representing Sandy Hook parents in Texas defamation lawsuits against Jones.

Alex Jones destroyed evidence in Sandy Hook case, claim says



Get breaking news alerts and special reports. The news and stories that matter, delivered weekday mornings.

Far-right agitator Alex Jones has been deleting social media posts about his conspiracy theory that the 2012 Sandy Hook mass shooting, which took the lives of 20 children and six adults, was a government hoax.

A Friday court filing on behalf of the father of a victim of the attack claims the removal amounts to destruction of evidence. The deletion of content that reflects Jones' view of the tragedy as a manufactured story using actors means that evidence is lost, the motion for sanctions claims.

Jones has been under pressure from critics who believe he and his Infowars brand shouldn't have free reign to inflict pain on victims via social media platforms. Facebook, YouTube and Apple have taken steps to remove Jones and Infowars. Twitter put Jones' account on a seven-day timeout Tuesday after finding that a post linking to a video in which he told his listeners to get "battle rifles" ready was a violation of its terms.

Infowars' reports and videos on Sandy Hook have blamed victims' parents, as well as the government, for manufacturing what it states was a hoax. Parents have been singled out by Jones, and his followers have issued threats against them.

Jones said during an Infowars broadcast last week that he instructed staffers to delete some social media posts in reaction to a news report the previous day that pointed out several posts appeared to violate Twitter's rules.

"... It is clear from Mr. Jones' own admissions that relevant evidence has been lost," the filing reads. "As pressure mounted from pending defamation lawsuits and growing public indignation, Mr. Jones chose to destroy the evidence of his actual malice and defamatory conduct ..."

Southern California journalist Brooke Binkowski has been tracking Jones' social media, and her work was cited in the Texas claim. It states Binkowski "was able to confirm that specific InfoWars messages" were deleted after news reports came out about their apparent violation of Twitter's rules.

"I think he might have deleted every single reference to Sandy Hook parents," she told NBC News.

But while the filing claims "these materials are fruitful sources of evidence," Binkowski says she has preserved it. "I got it all," she said.



August 9, 2018

Via Federal Express and Email

Google LLC
1600 Amphitheatre Parkway
Mountain View, CA 94043

Attn: Alex Jones and Buckley Hamman
Free Speech Systems, LLC ("Partner")
3019 Alvin DeVane Blvd Suite 350
Austin, Texas 78741
infowarsmain76@gmail.com, buckley@infowars.com

Attention: Legal Department
Re: Termination of Content Agreements

Dear Sir:

We write on behalf of Google LLC f/k/a Google Inc. ("Google") to inform you that we are exercising our contractual rights to terminate the Content Hosting Services Agreement ("CHSA"), dated December 12, 2013, and as amended on July 24, 2015. This letter serves as written notice that Google is exercising its right to terminate the CHSA on 30 days prior written notice under section 11.2.


Accordingly, the CHSA will be terminated as of **September 10, 2018**. The Sections that are described as surviving in the CHSA will survive termination. Upon termination, your Content Owner will be dissolved, but any active channels within that Content Owner and any live videos on those channels will remain.

This notice is not a waiver of any claims or defenses available to Google, including those set forth under the agreements.

Signed by an authorized representative of Google:

By:

Name:


Philipp Schindler
Authorized Signatory

2018.08.10

07:08:00 -07'00'

Date:



BakerHostetler

Baker & Hostetler LLP

Washington Square, Suite 1100
1050 Connecticut Avenue, N.W.
Washington, DC 20036-5403

T 202.861.1500
F 202.861.1783
www.bakerlaw.com

Mark I. Bailen
direct dial: 202.861.1715
MBailen@bakerlaw.com

August 16, 2018

VIA FEDEX

Philipp Schindler
Senior Vice President
Google LLC
1600 Amphitheatre Parkway
Mountain View, CA 94043

Dear Mr. Schindler:

We represent Free Speech Systems, LLC (“Free Speech”) in certain federal court matters. Free Speech has forwarded to us your letter of August 9, 2018 regarding notice of termination of a Content Hosting Services Agreement (“CHSA”), dated December 12, 2013 and as amended on July 24, 2015. In accordance with its obligations in the court cases referenced above (as well as other litigated matters), Free Speech is required to preserve evidence including documents and videos posted pursuant to the CHSA.

It is not clear from your letter the specific grounds upon which Google is relying to terminate the CHSA. It is also not clear what is meant by your statement that “your Content Owner will be dissolved, but any active channels within that Content Owner and any live videos on those channels will remain.” Please clarify what you mean by this statement and send us a copy of the CHSA, including all amendments, and any other documents that define “Content Owner” as referenced in the statement above.

Further, in light of its preservation obligations, Free Speech asks that Google refrain from deleting, destroying, dissolving, or otherwise rendering inoperable any videos or other documents posted by Free Speech or Alex Jones (or others at their direction) until Free Speech has retrieved all of the materials. We understand that Free Speech is currently unable to access these materials because its account is frozen.

You can email a copy of the CHSA to me at mbailen@bakerlaw.com. Please do so as soon as possible.

Atlanta Chicago Cincinnati Cleveland Columbus Costa Mesa Denver
Houston Los Angeles New York Orlando Philadelphia Seattle Washington, DC



August 16, 2018
Page 2

Thank you for your attention to this matter and please feel free to contact me if you have any questions or would like to discuss further.

Sincerely,

A handwritten signature in cursive script that reads "Mark I. Bailen". The signature is written in black ink and is positioned above the printed name and title.

Mark I. Bailen
Partner

**KASTER LYNCH
FARRAR & BALL^{LLP}**

TEXAS | FLORIDA

May 25, 2018

Via Facsimile: 512-472-5248

Mr. Eric Taube
Registered Agent for Free Speech Systems, LLC
Waller Lansden Dortch & Davis, LLP
100 Congress Ave., Ste. 1800
Austin, Texas 78701

Re: Cause No. D-1-GN-18-001842, *Leonard Pozner and Veronique De La Rosa vs. Alex E. Jones, et al.*, In the 345th District Court of Travis County, Texas.

Dear Mr. Taube,

I understand from discussions with my associate Mr. Ogden that you contacted my office today asking that my clients grant a favor to Mr. Jones and Infowars by allowing them an extension of time to file an answer to the lawsuit brought by the Pozners. It is my understanding that Mr. Jones has requested we grant him this favor because he has not yet been able to secure counsel to defend him against these claims.

Frankly, Mr. Jones' failure to secure legal representation is none of our concern. We expect Mr. Jones and Infowars to file a timely answer regardless of when he is able to locate an attorney willing to defend him. Additionally, in light of the years of torment Mr. Jones has inflicted on my clients, and in light of his continuing slander against my clients and our law firm, we have absolutely no inclination to do any favors for Mr. Jones. Indeed, during Mr. Jones' unhinged rant broadcast yesterday on Infowars, Mr. Jones referred to the members of my law firm as "devil-people." His request for an extension is therefore denied.

Furthermore, Mr. Jones needs to understand that the only focus of our law firm is to safeguard the interests and well-being of our clients. We will never take any action in this suit which provides Mr. Jones any benefit at their detriment. As such, there will be no favors or extensions in this case. This case will proceed according to the Texas Rules of Civil Procedure, and we expect Mr. Jones to comply with the commands of the law.

Finally, I would like to note that for the record that our law firm is committed to transparency through the pendency of these lawsuits. For that reason, we plan to make available to the general public and media copies of all correspondence and pleadings which arise in this lawsuit, including this letter.

Sincerely,



Mark D. Bankston
Kaster Lynch Farrar & Ball



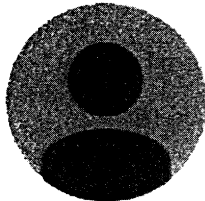
YouTube removes Alex Jones' page, following earlier bans

Sara Salinas

YouTube has removed Alex Jones' page, following bans earlier Monday from Apple and Facebook.

The Alex Jones Channel, which counts 2.4 million subscribers, still appeared in YouTube search results by midday Monday, but presented only a take-down notice when users clicked in.

"This account has been terminated for violating YouTube's Community Guidelines," the notice said.



This account has been terminated



Google had previously declined to comment on the InfoWars host's standing, but said in a statement to CNBC in response to the removal of the page: "All users agree to comply with our Terms of Service and Community Guidelines when they sign up to use YouTube. When users violate these policies repeatedly, like our policies against hate speech and harassment or our terms prohibiting

circumvention of our enforcement measures, we terminate their accounts."

YouTube counts "strikes" against pages for posts that violate the company's policies. Jones received a strike in July when he posted four videos that violated YouTube policies against child endangerment and hate speech, the company said in a statement to CNBC.

A page with one strike against it is suspended from live streaming for 90 days, YouTube said, but Jones attempted to circumvent the suspension by live streaming on other channels. As a result, his page was terminated, the company said.

The [InfoWars YouTube page](#), which has significantly fewer subscribers, was still live as of noon ET.

Jones and his controversial radio show have for several weeks been at the center of a debate around fake news and misinformation on digital platforms. Facebook and CEO Mark Zuckerberg drew criticism last month for declining to remove the InfoWars page.

Music streaming service [Spotify](#) removed InfoWars podcasts last week, and Apple and Facebook each cited violations of company policies regarding hate speech in banning Jones on Monday.

Jones confirmed on Twitter that he had been banned by Facebook, Apple and Spotify.

"What conservative news outlet will be next?" he tweeted.



Facebook, YouTube and Apple delete Alex Jones content

Apple confirmed on Monday that it had removed five out of six podcasts, which includes Alex Jones' infamous The Alex Jones Show. Facebook has also removed four pages that belong to Jones. YouTube followed suit later, removing his channel from its platform. YouTube removed Jones' official channel because he continued to livestream on other channels even though he was banned for 90 days due to previous violations.

01:13



Poll: Majority believe Alex Jones should be banned from social media platforms

BY HARPER NEIDIG · 08/27/18 12:02 PM EDT

Just In...

Why bailouts won't make the electric grid more resilient

OPINION — 1M 48S AGO

Lawmakers demand action, hearing in response to VA improperly denying sexual trauma claims

DEFENSE — 11M 59S AGO

Poll: GOP Rep. Duncan Hunter up by 8 points despite indictment

CAMPAIGN — 13M 6S AGO

New York City fines Kushner Companies \$210,000 for filing false paperwork

ADMINISTRATION — 20M 38S AGO

Trump administration to disburse first \$6 billion in farm bailout

ADMINISTRATION — 23M 18S AGO

GOP lawmakers urge improvements to cyber vulnerabilities resource

CYBERSECURITY — 26M 57S AGO

Top Japanese official: China tech success aided by totalitarianism

TECHNOLOGY — 30M 50S AGO

Trump damages law enforcement by condemning 'flipping' of criminals like Cohen

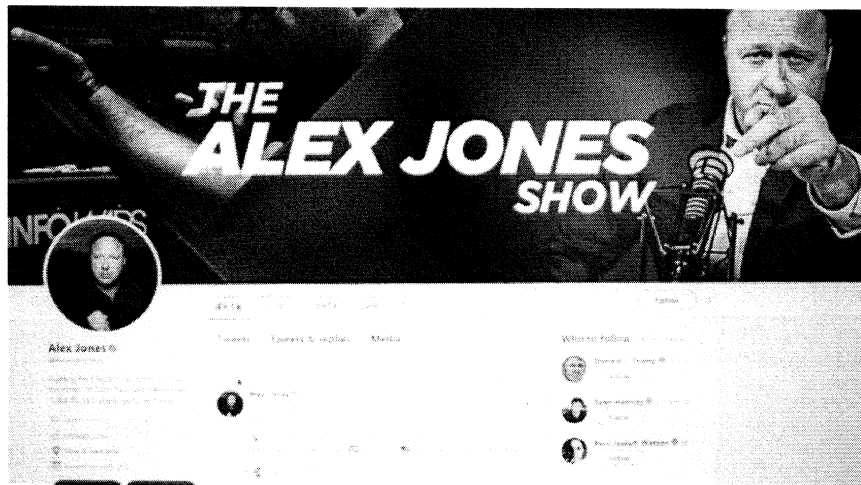
OPINION — 31M 47S AGO

56 SHARES

SHARE

TWEET

PL



A majority of voters think social media companies should ban Infowars founder Alex Jones from their platforms, according to a Harvard CAPS/Harris poll released exclusively to The Hill.

The poll showed 61 percent of registered voters surveyed believed Jones, who spreads unfounded conspiracy theories through his radio show Infowars, should be banned from the sites of tech companies, while 39 percent disagree.

Jones, who has claimed that the 9/11 terrorist attacks were perpetrated by the government and that the Sandy Hook massacre was a hoax, was banned from Facebook for 30 days and from Twitter for a week for violating the company's guidelines. Other social media companies have also followed suit.

However, some conservatives such as Sen. Ted Cruz (R-Texas) have objected, saying it violated Jones's First Amendment rights. Meanwhile, Republicans including President Trump have accused social media companies of censoring conservative voices.

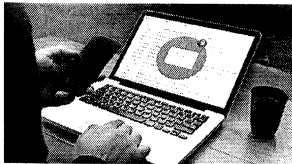
Sixty-four percent of those polled said platforms like Facebook and Twitter should be held legally liable for the content that's published on their sites. Websites currently have broad legal protections related to what their users post, though some lawmakers advocate cutting into that immunity.

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Voters are slightly less sure about whether tech companies should be able to take down or censor content.

When asked if internet users should be allowed to freely access all internet content or if some things should be censored, 51 percent favored censorship while 49 percent said all content should be accessible.

"Most Americans believe that big tech companies should censor some content but they believe such censorship should be limited to the standards of the First Amendment and community decency standards," said Harvard CAPS/Harris Poll co-director Mark Penn.

"They believe Alex Jones should have had only material related to false conspiracies removed, not wholesale removal of all his material," he added.

"But if tech companies continue to act like and be seen as media companies then most of the public thinks they should be held accountable for all of the material they carry, which would be a sea change in liability for these companies," he also noted.

When asked about specific companies, 65 percent of those polled said they believed Facebook was neutral, while 56 percent thought that was the case with Twitter and 55 percent with Google and YouTube.

Meanwhile, 50 percent thought of Instagram as neutral.

The Harvard CAPS/Harris Poll online poll consisted of surveys of 1,330 registered voters conducted Aug. 22-23. The partisan breakdown is 37 percent Democrat, 32 percent Republican, 29 percent independent and 2 percent other.

The Harvard CAPS/Harris Poll is a collaboration of the Center for American Political Studies at Harvard University and The Harris Poll. The Hill will be working with Harvard/Harris Poll throughout 2018.

The Harvard CAPS/Harris Poll survey is an online sample drawn from the Harris Panel and weighted to reflect known demographics. As a representative online sample, it does not report a probability confidence interval.

TAGS DONALD TRUMP TED CRUZ TWITTER FAKE NEWS INFOWARS CENSORSHIP FACEBOOK SOCIAL MEDIA

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NO. D-1-GN-18-001835

NEIL HESLIN,

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§

IN THE DISTRICT COURT OF

Plaintiff,

§
§

v.

§
§

TRAVIS COUNTY, TEXAS

ALEX E. JONES, INFOWARS, LLC,
FREE SPEECH SYSTEMS, LLC, and
OWEN SHROYER,

§
§

Defendants

§
§

261st JUDICIAL DISTRICT

AFFIDAVIT OF ROB DEW

STATE OF TEXAS §

§

COUNTY OF TRAVIS §

BEFORE ME, the undersigned notary public, on this day personally appeared Rob Dew, known to me to be the person whose name is subscribed below, and who on his oath, deposed and stated as follows:

1. My name is Rob Dew. I am over the age of 21 years, have never been convicted of a felony or crime involving moral turpitude, am of sound mind, and am fully competent to make this affidavit. I am directly in charge and oversee all news media and social media for Defendants. I have personal knowledge of the facts herein stated and they are true and correct.

2. The June 25, 2017¹ broadcast about which Plaintiff complains was not deleted from YouTube or destroyed by any of the Defendants. Defendants have preserved this video. In fact, this video was provided to Plaintiff as attachment B-36 to Defendants' Motion to Dismiss Under the Texas Citizens Participation Act.

¹ The video about which Plaintiff complains did not occur on June 26, but instead on June 25, 2017.



3. The July 20, 2017 broadcast about which Plaintiff complains was not deleted from YouTube or destroyed by any of the Defendants. Defendants have preserved this video. In fact, this video was provided to Plaintiff as attachment B-37 to Defendants' Motion to Dismiss Under the Texas Citizens Participation Act.

4. The four tweets referenced in the August 9, 2018 CNN article cited in Plaintiff's Motion for Sanctions for Intentional Destruction of Evidence and were dated December 19, 2012, September 24, 2014, December 2, 2014, and July 7, 2015.

5. Those tweets were removed out of an immediate and serious concern they may have violated Twitter's terms of service as argued in the article. I believed this was a valid concern and important given that several social media accounts had just recently been banned on Aug. 6. I believe that it was highly likely that after the CNN article cited by Plaintiff was published, Twitter, like many others such as YouTube, Facebook and Apple, would succumb to the public pressure and ban the twitter account permanently. I believed that this would have resulted in the permanent loss by Defendants of access to every post ever made under the account.

6. Defendant did not intend to destroy any evidence nor did it destroy any evidence regarding these tweets. Defendants have preserved copies of each of the 4 tweets. They also attempted to preserve copies of each of the comments posted on each tweet and were able to preserve the vast majority of them. However, despite these efforts 17 comments were not able to be retrieved, because they were either deleted by the users who made the comments or those users accounts have been deleted or removed by Twitter, which are the most likely causes and something that Defendants have no control

over and could have happened at any time since the posting, or were inadvertently lost from Defendant's cache.

7. The tweet posted December 19, 2012 had only 23 comments since it was posted in 2012. Defendants were able to preserve 18 of those 23 comments.

8. The tweet posted September 24, 2014 had only 18 comments since it was posted in 2014. Defendants were able to preserve 16 of those 18 comments.

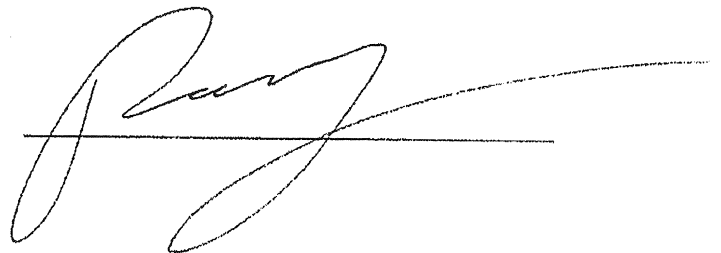
9. The tweet posted December 2, 2014 had on 5 comments since it was posted in 2014. Defendants were able to preserve 3 of those 5 comments.

10. The tweet posted July 7, 2015 had only 8 comments since it was posted in 2015. All of the 8 comments to this tweet were unfortunately lost.

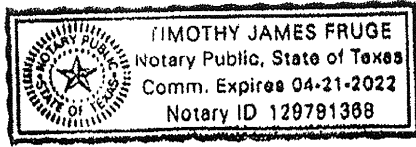
11. The loss of these few comments was completely unintentional and Defendants in no way intended to destroy evidence.

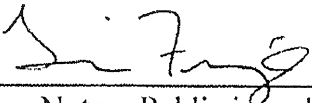
12. The four tweets removed from the twitter account regarding Sandy Hook do not mention or reference Plaintiff or his son in any manner.

Further Affiant Sayeth Not.

A handwritten signature in black ink, appearing to be 'R. Dew', is written over a horizontal line. The signature is stylized and cursive.

SWORN TO and SUBSCRIBED before me by Rob Dew on August 23, 2018.





Notary Public in and for
the State of Texas

My Commission Expires:

4-21-2022

NEIL HESLIN,

Plaintiff,

v.

ALEX E. JONES, INFOWARS, LLC,
FREE SPEECH SYSTEMS, LLC, and
OWEN SHROYER,

Defendants

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IN THE DISTRICT COURT OF

TRAVIS COUNTY, TEXAS

261ST JUDICIAL DISTRICT

AFFIDAVIT OF MARK C. ENOCH

STATE OF TEXAS §
§
COUNTY OF DALLAS §

I, Mark C. Enoch, do hereby declare under penalty of perjury that the following is true and correct.

1. My name is Mark C. Enoch. I am fully competent and capable in all respects to make this Affidavit. As lead counsel in this case, I have become familiar with the facts by reviewing documents and speaking with witnesses, I have read the pleadings and discovered and reviewed evidence and have studied the statutory and common law relating to the causes of action alleged by Plaintiff, the law relating to discovery that may be allowed under the Texas Citizens Participation Act, and the law relating to sanctions. Based upon my role as lead counsel in this case and the work that I have done, I have personal knowledge of all of the facts stated in this Affidavit, and they are true and correct. This Affidavit is submitted in connection with Defendants' Response to



Plaintiff's Motion for Sanctions and Motion for Expedited Discovery and Defendants' Motion for Sanctions contained therein filed in the above-styled litigation.

2. I am an attorney duly licensed to practice law in the State of Texas and have been continuously licensed and have practiced civil trial and appellate law since 1979. I am with the law firm of Glast, Phillips & Murray, P.C. which represents the Defendants in the above-styled litigation. My practice has been devoted to civil litigation such as this in state and federal court. I have been continuously certified in civil trial law by the Texas Board of Legal Specialization since 1988. I have also been involved in civil appeals and have prepared appellate briefs and arguments.

3. My standard hourly billing rate and my hourly billing rate for this matter is \$535. The other senior-level attorneys, associate attorneys and paralegal who have worked on this matter also have billed at the firm's standard hourly billing rates for each such senior-level attorney, associate attorneys and paralegal. The hourly billing rates for the two other senior-level attorneys is \$390 and \$400 respectively. The hourly billing rates for the associate is \$290. The firm's standard hourly billing rate for the paralegal who has worked on this matter is \$110.

4. I am familiar with rates charged by attorneys and paralegals in Dallas and surrounding counties as well as rates charged by attorneys and paralegals in Travis and surrounding counties for civil litigation matters and these hourly rates are reasonable when compared to customary and typical hourly rates charged in those areas of Texas for attorneys with similar education, experience, training and abilities.

5. On August 17, 2018 Plaintiff's counsel filed his Motion for Sanctions for Intentional Destruction of Evidence. He did this when he knew that I was away from the office on a vacation of which he was properly notified on June 29, 2018. A true and correct copy of that vacation/unavailability letter sent to Plaintiff's counsel is attached hereto marked as Exhibit A. In addition, I had informed Plaintiff's counsel before my vacation that during my time away I would be "largely unavailable" for my two week vacation.

6. As a result of this filing, Defendants incurred reasonable and necessary attorney's fees and costs directly related to responding to this motion.

7. Because I was out of the office with limited phone and internet service, communication with attorneys and staff in the office was inefficient. For example, I spent more than three hours in the days after Plaintiff's filing just trying to send and receive emails that otherwise would have taken seconds.

8. The total of fees billed by Glast, Phillips & Murray and incurred by Defendants as a direct result of Plaintiff's Motion for Sanctions through the date of this affidavit in connection with responding to that motion is \$28,162.00 and the communication expenses total \$75.00. Based on my education, experience and training, it is my opinion that a.) the law firm's hourly rates are reasonable and typical and customary for similar legal services in Travis and Dallas Counties and b.) that the total fees billed as of this date were and are both reasonable and necessary to properly defend against Plaintiff's motion. It is my further opinion based upon my education, training and experience that the time expended on each individual task completed by Glast, Phillips &

Murray in this matter in preparing the response was appropriate, reasonable and necessary and that the lawyer and/or paralegal was appropriately assigned to each task. The total amount incurred by Defendants includes fees associated with, among other things, reviewing the motion and exhibits, reviewing case law, reviewing emails and correspondence relevant to the motion, reviewing and commenting on drafts of the response, preparing a letter to the Court dated August 21, 2018 and investigating the allegations.

9. Furthermore, I estimate that further legal work will be reasonable and necessary to prepare for and attend the August 30 hearing. For this anticipated legal work, I estimate, and my opinion is, based on my education, experience and training, that Defendants will incur additional reasonable and necessary attorney fees in an amount of approximately \$3,275.00.

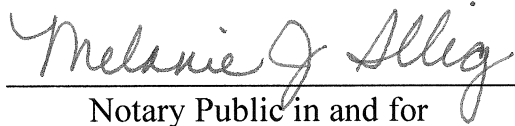
10. Based upon my education, experience and training, it is my opinion that the above rates and amounts are reasonable and necessary for the services rendered and to be rendered considering, among other things, the novelty and difficulty of the issues involved, the skill and training of the lawyers involved and the skill required to provide the legal services properly, the time and labor involved to perform the legal services properly, the fee customarily charged in the community for similar services, time constraints placed on the lawyers by the clients and circumstances of the case and the issues and amounts involved and the results obtained.

Executed in Dallas County, State of Texas.



Mark C. Enoch

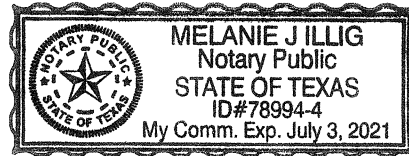
SWORN TO and SUBSCRIBED before me by Mark C. Enoch on August 27, 2018.



Notary Public in and for
the State of Texas

My Commission Expires:

7/3/21



6/29/2018 9:55 AM

Velva L. Price
District Clerk
Travis County
D-1-GN-18-001835
Hector Gaucin-Tijerina

GLAST, PHILLIPS & MURRAY
A PROFESSIONAL CORPORATION

MARK C. ENOCH, J.D., M.B.A.
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fly63rc@verizon.net

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(972) 419-8300
FACSIMILE (469) 206-5022

June 29, 2018

Via e filing

Clerk, 261st District Court
Travis County
1000 Guadalupe, 5th floor
Austin, TX 78701

Re: **Amended Vacation/Unavailability Letter; Neil Heslin v. Alex E. Jones, Infowars, LLC, Free Speech Systems, LLC and Owen Shroyer; Cause No. D-1-GN-18-001835, 261st District Court, Travis County, Texas**

Dear Clerk:

I will be on vacation/unavailable on the following dates:

July 14 – August 1
August 12 – August 26

Please do not schedule any hearings or court trial dates during this time-frame. By copy of this letter I am requesting that opposing counsel not schedule any hearings or depositions during this time period as well. Thank you for your attention to this matter.

Very truly yours,

/s/ Mark C. Enoch

Mark C. Enoch

MCE:mji

cc: Mr. Mark D. Bankston (*via e-service*)

